

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on February 8, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: Rep. David Wanzenried (D)

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 44, 2/6/2001; SB 61,
2/2/2001; SB 172, 2/2/2001
Executive Action: SB 61; SB 172; HB 57; HB 273

HEARING ON SB 44

Sponsor: SENATOR AL BISHOP, SD 9, Billings

Proponents: Russ Hyatt, Department of Revenue
Neil Peterson, Department of Revenue

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.5}

SEN. BISHOP said under current law a warrant for distraint when it is issued includes accumulated penalty and interest. After it is issued, the interest keeps accumulating until the warrant is collected. In 1999 when amending the law to include these warrants, they forgot to include the penalty accruing. This bill includes the penalty accruing at 1.5% per month until it reaches an 18% cap.

Proponents' Testimony:

Neil Peterson, Department of Revenue, explained the collection process. **EXHIBIT (tah32a01)** He also explained what a warrant is. **EXHIBIT (tah32a02)** Under current law, when a warrant is filed against a debt of \$1000, the penalty and interest can accrue; however, the accrued penalty cannot be collected with the warrant of distraint. This bill would take care of the oversight by allowing the penalty to continue to accrue.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 7.1}

REP. WAITSCHIES asked if the penalty is construed as interest and cannot accrue it over time. **Neil Peterson** said it could be construed to be interest, but the purpose of changing the penalty is so it can be graduated. **REP. WAITSCHIES** asked if it can be construed as interest some problems might occur with the amount that is being charged. **Neil Peterson** said he did not believe so, as there is no limitation on interest that can be charged.

REP. ESP asked how much money is currently delinquent and subject to this penalty. **Neil Peterson** said they typically file approximately 4000 warrants per year. Most of these are on individual income tax liabilities. He is unsure what the total amount of debt is associated with these warrants or what portion

is subject to penalty. **REP. ESP** asked if the fiscal note addresses how much money is outstanding. **Neil Peterson** said it does not. There is approximately \$28 million in debt associated with individual income tax.

REP. JACKSON asked what the interest is. **Neil Peterson** said the penalty is 1.5% per month up to a maximum of 18%. Interest is simple interest at 1% per month. **REP. JACKSON** asked if there is a minimum amount owed the Department would ignore when charging penalty and interest. **Neil Peterson** said the current threshold is \$10. **REP. JACKSON** asked if the 18% applies only to the penalty. **Neil Peterson** said the 18% is a graduate penalty at 1.5% per month. If someone is six months late, they would pay a 9% penalty. If they were 12 months late, they would pay 18% penalty. **REP. JACKSON** asked what would happen if this bill was not passed. **Neil Peterson** said this is a cleanup bill. These penalty and interest provisions apply to all taxes the Department administers and collects. If this was not passed, only in an instance where they file a warrant they would not be able to accrue penalty after that is filed.

REP. STORY asked what the purpose is of taking out the fines for a contractor failing to file. **Neil Peterson** said this is also cleanup in that this was missed, so it would put this tax under the interest and penalty provision. **REP. STORY** asked if a contractor fails to file they would fall under the uniform interest and penalty law. **Neil Peterson** said this is correct. **REP. STORY** asked if by taking out the 10% penalty on excise tax they would not only pay a 1.5% penalty. **Neil Peterson** said this is correct.

REP. SOMERVILLE asked how this applies to retail telecommunication tax and how Montana is doing in collecting this money. **Neil Peterson** said these provisions would apply to them. As far as collecting, once the debt is established and becomes past due, depending on the dollar amount associated with this, there are ways to contract with an out-of-state attorney to get a judgement to collect.

HEARING ON SB 61

Sponsor: SENATOR ROYAL JOHNSON, SD 5, Billings

Proponents: Tim Donahue, Student Assistance Foundation
Cathy Muri, Department of Administration

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 19.5}

SEN. JOHNSON said every state in afforded the opportunity by the Federal government to issue tax exempt bonds for public purposes. This cap has been at \$150 million for some time, and the Federal government has decided they are going to raise the cap to approximately \$187 million over the next couple of years. All that is being done is changing the direct numbers to percentages, so if the Federal government in the future says the states can issue more, the percentages of the participants in the program will get the same percentage. He reviewed the percentages and who they go to listed in the bill.

Proponents' Testimony:

Cathy Muri, Department of Administration, read her written testimony **EXHIBIT (tah32a04)** and handed out written testimony from **Bruce Brensdal, Executive Director, Montana Board of Housing EXHIBIT (tah32a05)**.

Tim Donahue, Operations Director, Student Assistance Foundation (MHESAC), read his written testimony. **EXHIBIT (tah32a03)**

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 30.2}

REP. SOMERVILLE asked if the student bond program is run by the Department of Administration or higher education. **Tim Donahue** said MHESAC is a non-profit, and they have a relationship with the commissioner's office for this program.

REP. FORRESTER asked what these bonds are and how they are issued. **SEN. JOHNSON** said these are like municipal bonds. They are tax exempt bonds to be used as stated in the bill. For example, the Board of Housing a number of financial advisors they use in their operation. They contract using an investment firm and offer them to institutions and the public just as they would with any other municipal bond.

REP. STORY asked what the interest rate differential is because of the tax free status. **SEN. JOHNSON** said it moves up and down, but is about a 2% differential depending on the market.

HEARING ON SB 172

Sponsor: SENATOR ROYAL JOHNSON, SD 5, Billings

Proponents: Curt Nicholson, Budget Office

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 2}

SEN. JOHNSON said a big share of the assets of the general fund of the coal trust are invested in bonds. Because interest rates change, the bonds increase or decrease in value, and it does not make much difference to the investment board because it does not change the return on the bond. During the life of the bond, as long as the company or government can pay what they should, you will get the interest percent. The problem arises when an unrealized loss on the general fund balance turns out to be \$50 million and they are forced to report this in the year end reporting. The Board of Investments pays out the money on a monthly basis to the people who are using the interest income, but you do not actually have the amount for the ending fund balance if the market is down. They do not want to have to factor in realized and unrealized profit. They want to be able to just use the book value of the bonds when they report.

Proponents' Testimony:

Curt Nicholson, Budget Office, said this bill allows them to report the general fund balance in a consistent way. They would exclude unrealized gains.

Closing by Sponsor:

SEN. JOHNSON said this is a hard concept to understand. It is important for the accounting procedures and for people to realize that all of a sudden \$50 million has not been lost or gained.

EXECUTIVE ACTION ON SB 61

Motion/Vote: REP. ESP moved that SB 61 BE CONCURRED IN. Motion carried unanimously. REP. FORRESTER to carry on floor.

EXECUTIVE ACTION ON SB 172

Motion: REP. FUCHS moved that SB 172 BE CONCURRED IN.

Discussion: REP. ESP asked if the book value fluctuates but they do not sell until the end of the term of the bond so there is not any realized gain. REP. STORY said this is how he understands it. When the bonds are paid back they are amortized, so you get interest and principal every year. When they come in with the report, they have an adjustment that is usually millions of dollars because they have to adjust for those unrealized gains and losses.

Motion/Vote: REP. FUCHS moved that SB 172 BE CONCURRED IN.
Motion carried unanimously. REP. BALLEAT to carry on floor.

EXECUTIVE ACTION ON HB 57

Motion: REP. ERICKSON moved that HB 57 DO PASS.

Discussion: **EXHIBIT**(tah32a06) (Note: Joint discussion on HB 57 and HB 273.) REP. BALLEAT said they should pass HB 57 in an amended form over HB 273 because it is more flexible to work with the money. REP. ERICKSON said HB 57 is a bill that the Revenue & Taxation Committee suggested during the interim. In the Section 8 funding, there was a reserve fund not being used. The money would be able to be used differently than the TANF money, as this money can be used to actually construct houses. The TANF money can be used for loans. REP. SOMERVILLE asked who would do the construction. REP. ERICKSON said the private sector would be involved, but cities and counties could be involved as well. REP. STORY referred to the statute previously handed out and said it states what the law allows the money to be used for. REP. ESP asked if there was any credence in the Department saying this fund would deplete over the next few years. REP. ERICKSON said since this money has not been used for six years the Department will try to find a way to spend it. The need for affordable housing is great and here is some money. REP. STORY asked what initial principle means as stated in the bill. Jeff Martin said there is an initial deposit into the revolving loan account fund to make loans. REP. STORY asked if \$1.6 million is put into the account if that is the initial deposit and if deposits can be added to the principle. Jeff Martin said this is not clear. REP. ERICKSON said if the TANF bill is passed, we will need to make some slight changes to this law so it is understood how the TANF money could be used. Any technical problem would be able to be fixed at that time. REP. ESP asked what the amount of money

is that exists already. **REP. ERICKSON** said he is unsure, but this particular idea is to get people into home ownership. There are a lot of programs that help with rentals, but this is a program to help people into affordable housing ownership. **Ren Essen** said the intention of the revolving loan fund is to provide where there is gaps. The \$1 billion referred to during the hearing is regarding a press release put out by FANIMA.

EXHIBIT (tah32a07) It has been clarified that this money with FANIMA is actually conventional loans, so some people might not be able to access this. The housing trust fund will serve a different population than the money FANIMA has set aside. **REP. ESP** asked if this money can be loaned for down payments to get conventional loans. **Ren Essen** said yes, so this would be a matching program to leverage conventional sources. Families who could have afforded home ownership a couple of years ago can no longer access affordable housing because of the market. The loan program would provide for families to get their first home but the money would be recaptured with interest. **REP. BALYEAT** asked if this money could be used to help access the FANIMA money and could be spread further because of repayment. **Ren Essen** said yes. They have provided second mortgages at low interest and matched it with conventional loans, so the overall interest rate was reduced, and the family makes both payments. **REP. ESP** said Section 8 housing has a valuable role, and he does not want the fund to be depleted, so he stands in opposition to the bill. **REP. DEVLIN** asked if these two bills work closely enough together that if only one were passed it would not work. **REP. ERICKSON** said these bills can work by themselves, but they will work better together. **REP. BALES** asked if Section 8 money has money going out but begin repaid. **REP. ERICKSON** said Section 8 is not a revolving loan. **REP. STORY** said assumption 1 on the fiscal note addresses this. **REP. FORRESTER** said Section 8 individuals are willing to work and want to get out from under this Section 8 money and have home ownership. **REP. SOMERVILLE** asked if any of the workers currently being laid off would be under Section 8 housing. **REP. FORRESTER** said Section 8 has definite income guidelines, so the people who have been laid off probably would not qualify; however, if they are in a rented unit now and the landlord has agreed to Section 8, they may be eligible. **REP. SOMERVILLE** asked if Section 8 will need additional funds in the next year because of the additional layoffs. **REP. FORRESTER** said the funds proposed to be accessed is the reserve account. **REP. STORY** asked how the \$3 million ending fund balance fluctuates throughout the year. **REP. ERICKSON** said about \$80,000 in interest is collected per year, and they have been using the interest.

Motion: REP. BALLYEAT moved that **THE BILL BE AMENDED FROM \$1.6 MILLION TO \$.5 MILLION.**

Discussion: REP. BALLYEAT said the amount should be decreased because they need some of the Section 8 money and it will probably pass through the system with the decreased amount of money. REP. ERICKSON said he believes with the argument that it would be useful to have the flexibility with this money and that it would probably make the bill more likely to pass through the system, so he will reluctantly consider this as a friendly amendment.

Motion/Vote: REP. BALLYEAT moved that **AMENDMENT DO PASS.** Motion carried unanimously.

Motion/Vote: REP. ERICKSON moved that **HB 57 DO PASS AS AMENDED.** Motion carried 18-2 with Esp and Story voting no.

EXECUTIVE ACTION ON HB 273

Motion: REP. ERICKSON moved that **HB 273 DO PASS.**

Discussion: REP. ERICKSON said in recent years other states have been going toward using TANF money in this way, and it is working. This money will assist families with getting into home ownership. If this bill is passed, it will go to appropriations. REP. ESP said there are a lot of people going after this same pot of money, so if it comes down to a choice between mental health and housing, he chooses mental health. Judy Smith said the money for mental health has already been removed from the pot. There is around \$60 million of TANF money to use, so this would not be disadvantaging any other important use. REP. ANDERSEN asked what happens to TANF money that is not used. Judy Smith said TANF is a block grant, so after a certain period of time if it is not used it is lost, plus we may not get authorized the same amount of money again. The Department made a decision to create a large amount of money and hold it, so now they have to spend it because reauthorization is in 2002. REP. ANDERSEN asked if spending of this money is not authorized does the Department have the latitude to decide how it might be spent. Judy Smith said the Department has put together FAIM 2 which attempts to spend the money. The Department agrees there is money to spend and that the legislature is the appropriate place to have the discussion of how to best use these TANF dollars. The Department did not oppose this idea. REP. ESP asked what the purpose of these particular funds is. Ren Essen said it is on the handout she passed around. They have been discussing bridge loans to

landlords for additional assistance with security deposits, rental emergency assistance loans to TANF eligible families, and downpayment and second mortgage assistance for first-time home buyers. **REP. ESP** asked if anybody up to 150% poverty can use this money but it is proposed to increase this to 200%. **Ren Essen** said this would be the state's discretion to determine this. 200% is what the Federal government sets. **REP. SOMERVILLE** asked for a further explanation of TANF. **REP. JACKSON** said it covers the most basic needs first and then expands from there. **REP. SCHMIDT** said TANF funds can be used for a variety of things, but what we are having to do now is decide on the policy of how the funds can be used, and they are used all over the country for transportation, day care, and housing problems. Appropriations will decide how this TANF money will be spent. **REP. SOMERVILLE** asked if there is \$60 million in the fund and this bill is looking at \$3.5 million, what are the other requests for this money. **REP. ERICKSON** said the \$60 million is not there anymore, and it is closer to \$10 million that appropriations is still working with. **REP. SCHMIDT** said she had a bill to deal with transportation, and there have been some to deal with daycare, but she is unsure where the list of bills are in the process. **REP. BALYEAT** said he is going to support this bill because there will be more bang for the buck through this program by using it as a revolving loan program. **REP. STORY** said he wished he had the bill list asking for the TANF funds, because there are a lot of programs that are currently general fund programs that people are trying to fund with TANF money. He asked how many of the proposals are new programs versus programs being shifted to the TANF funds. **REP. SCHMIDT** said a lot of the bills have been modeled after what other states have done with their TANF money. **REP. SOMERVILLE** said families who have jobs still have to pay rent, child care, and insurance. This is good idea to hopefully help some of the families with these issues. **REP. ESP** said the income standards for this revolving loan program are connected to median income in the community.

Motion/Vote: **REP. ERICKSON** moved that **HB 273 DO PASS**. Motion carried unanimously.

ADJOURNMENT

Adjournment: 9:41 A.M.

REP. BOB STORY, Chairman

RHONDA VAN METER, Secretary

BS/RV

EXHIBIT (tah32aad)